

Cook, Lisa

From: Richard Aron Osman [richard@sci-tech.com]
Sent: Monday, November 21, 2005 1:25 PM
To: Cook, Lisa
Subject: UTSD:0862; LDLR patent

Hi Lisa,

So far I've been unable to come up with good alternative language that does not create statutory problems. I think it is OK to change the transition word from "comprising" to "consisting essentially of". I think that changing it to "consisting of" would eviscerate the claim because it would allow someone to avoid the claim by adding an immaterial step (e.g. chewing a piece of gum).

I'm also happy to provide any further express disclaimer of the subject matter we agree should not be encompassed by the claims.

I completely agree with you that the claims may not encompass the cited Willnow, and I completely agree with you on what Willnow discloses. As I understand it, we just differ on how the claims are properly construed. I still think that step (b) requires that it is the protease that cleaves, and it is the protease that releases. If you think the claim still encompasses Willnow, then I think we should send the case to the Board to see how they construe it. I think they will construe the claim to not encompass Willnow, but if they don't it will be a useful lesson for me.

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